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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/658,209

09/08/2000

Stephen J. Brown

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10/27/2003

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

EXAMINER

SALAD, ABDULLAHI ELM I

ART UNIT

PAPER NUMBER

2157

DATE MAILED: 10/27/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/658,209

Applicant(s)

BROWN, STEPHEN J.

Examiner

Salad E Abdullahi

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-78 is/are pending in the application.
- 4a) Of the above claim(s) 17-78 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) g.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Detailed Action

1. This application has been reviewed. Original claims 1-78 are pending. The rejection cited stated below.

Election/Restriction

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-16, are drawn to computer network monitoring, classified as class 709, subclass 224.
 - II. Claims 17-78, are drawn diagnostic testing via monitoring a plurality of physiological data, classified as class 600, subclass 301.
3. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01).
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
5. During a telephone conversation with Mr. Richard T. Black on October 16, 2003 a provisional election was made without traverse to prosecute the invention of group I claims 1-16. Affirmation of this election must be made by applicant in replying to this

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Office action. Claims 17-78 withdrawn from further consideration by the examiner, 37 CFR 1.

142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirk et al., U.S. Patent No. 5,390,238, in view of Crawford, Jr. U.S. Patent No. 5,331,549.

As per claim 1, 6, 9 and 15, Kirk et al., disclose system for remotely monitoring an individual, the system comprising:

- a remote apparatus (health support unit 30) for interacting with the individual (patient 32) the remote apparatus being in communication with a server system (38) via a communication network (36) (see fig. 3);

the server system comprising:

- generating responses and feedback information and transmitting from the remote apparatus to the central server system via the communication network (see col. 5, lines 22-54);

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- a database for storing responses or feedback data received from the patient (see fig. 5, element 112);
- an answering service (monitoring service 12); and

wherein the remote apparatus comprises:

- a communication component for receiving the communications from the server and for transmitting the responses to the server (see col. 2, lines 1-30);;
- a user interface (85) comprising a microphone, speaker and a voice communication button (64); and
- a processor (61) connected to the communication component and the user interface for executing the commands to communicate the set of queries to the individual, to receive the responses to the set of queries from the user interface, and to transmit the responses to the server, wherein when the voice communication button is activated, the answering service sends a series of questions as voice communication from a stored set of questions to the remote apparatus for the individual to respond to, stores responses to each provided question in the series of questions and provides a service based on the individual's response to the questions (see fig. 4 and col. 1, line 61 to col. 2, line 30 and col. 4, line 47 to col. 5, line 27).

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Kirk is silent regarding:

a script generator for generating a script program and sending the script program to the remote apparatus, the script program being executable by the remote apparatus.

Crawford, Jr. in an analogous art discloses a medical monitoring system for monitoring patients, including a script generator generating script program (generating a Dynamic Data Exchange (DDE) driver is a program incorporated on the server that allows communication with remote apparatus and in particular provides a data distribution function in addition to support for the remote apparatus. The DDE driver program sends local digitized patient data to the monitoring program on the central server and. The DDE driver also provides ability to send commands from the central server to the various remote apparatus (the health support unit) (see col. 3, line 32 to col. 4, line 4). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention presented with teaching of Kirk to utilize the dynamic data exchange driver program as taught by Crawford such that patient critical data can be efficiently exchanged between the between monitored apparatus and the monitoring system.

In considering claims 2 and 7, Kirk et al., disclose a system, wherein the provided service is communication with a health care professional (Doctor) (see fig 2, element 24).

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In considering claims 3 and 8, Kirk et al., disclose a system, wherein the provided service is communication with a service provider (care provider) (see fig. 2, element 20).

In considering claim 4-5, Kirk et al., disclose a system, wherein the answering service (monitoring service 12) includes a speech recognition component for receiving spoken responses (see col. 6, lines 6-17).

In considering claims 9-11 and 16, Kirk et al., disclose a system in clouding various appliance component such alarm device (see col. 4, lines 27-33).

In considering claims 13 and 14, Kirk discloses a system, wherein the apparatus receives physiological data from a monitoring device coupled thereto (remote module 31) (see fig. 3, element 31).

CONCLUSION

8. The prior art made of record and relied upon is considered pertinent to the applicants disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abdullahi E. Salad** whose telephone number is **(703) 308-8441**. The examiner can normally be reached on Monday to Friday from **8:30 AM to 5:00 PM**.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Etienne, Ario** can be reached at **(703)308-7562**. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **(703)305-3900**.

Any response to this action should mailed to:

Box AF

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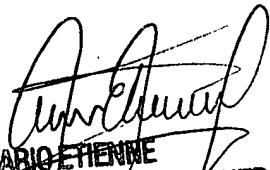
Washington, DC 20231

or faxed to:

(703) 872-9306).

As

10/17/2003


ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100